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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,837	03/03/2004	Toshimichi Kishimoto	501.43611X00	2503

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ART UNIT	PAPER NUMBER
2163	

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>26 July 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-12</u> is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-12</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>03 March 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☒ All   b)☐ Some * c)☐ None of:

　　　　1.☒ Certified copies of the priority documents have been received.

　　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　　~~Paper No(s)/Mail Date 7/18/06.~~

4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____ .

Detailed Action

1.   In response to communications filed on 7/26/2006, Claims 1-12 are pending; Claims 1-7,

9, and 11-12 have been amended; No claims have been cancelled, nor added.

Priority

2.   Acknowledgment is made of applicant's claim for foreign priority under 35

U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. (JP) 2003-388702,

filed on 11/19/2003.

Information Disclosure Statement

3.   In view of the objection made to the information disclosure statement due to the listing of

references JP-A-2003-108420 and JP-A-2003-108412 in the specification on page 1, line 13 and

page 2, line 9; not being a proper information disclosure statement. Examiner withdraws this

objection due to the submission of the information disclosure statement, wherein in the IDS submitted on

7/18/06, has been considered by Examiner

Drawings

4.   In view of the objection made to the drawings because they include the following reference

character(s) not mentioned in the description (Figures cited): A. Figure 5, element 310 (cited on

page 8 of specification, lines 1-2), B. Figure 5, element 101 (cited on page 8 of specification,

line 13). Examiner withdraws this objection due to the amendments made.

Claim Objections

5.   In view of the objection made to claims 1,3,5,7,9 and 11 being objected to because of the

following informalities: Claims 1,3,5,7, and 9 have a comma cited after each limitation vs. a

semi-colon. Examiner withdraws this objection due to the amendments made.

Claim Rejections – 35 U.S.C. – 101

6.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7.   Claims 1,3,5,7,9, and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to

comply with the written description requirement. The claim(s) contains subject matter, which

was not described in the specification in such a way as to reasonably convey to one skilled in the

relevant art that the inventor(s), at the time the application was filed, had possession of the

claimed invention. Claims 1,3,5,7,9, and 11 recited the limitation "at least sending **a third**

request to said storage device requesting constructional information", wherein a "third request"

is not defined within applicants specification originally filed on 3/3/2004. Claims 2,4,6,8,10, and

12 are also rejected by virtue of their dependency to claims 1,3,5,7,9, and 11.

Claim Rejections – 35 U.S.C 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9.   Claims 1-12 are rejected under 35 U.S.C. 103(a) as being obvious over Kurose et al (US

Publication No. 2001/0056459, Publication Date: December 27, 2001) in view of Nakamura et

al. (US Publication No. 2003/0061331, Filing Date: Feb. 20, 2002).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Claims 1,5,7, and 9:

Regarding claims 1,5,7, and 9, Kurose teaches a processing method for use in the operation (see abstract, wherein apparatus processes received network service request and provides a service) of a storage managing server that is connected to a storage device (page 14, column [0152], wherein policy servers can be written as programs stored in computer-readable recording mediums, wherein the operations can be realized by the computers executing the programs, wherein the computer readable recording mediums may be a magnetic storage device, Kurose) and a storage managing terminal (page 14, column [0152], wherein the programs can be stored in a storage device belonging to a first computer transferred to a second computer

connected through a network to the first computer, wherein each program can be stored in a hard

disk drive or the like belonging to a computer, and wherein a terminal is interpreted to be a

device that allows you to send commands to a computer somewhere else, Kurose), wherein the

storage managing server receives a first request (Figure 1, all features, and page 3, paragraph

[0044], wherein each service request-compatible apparatus, i.e., diagram 20, is equivalent to

receiving the first request has a function of a receiving a network service request and providing a

network, wherein the storage managing server is equivalent to be service request compatible

apparatus, and the storage managing terminal is interpreted to be service assignment apparatus,

diagram 10, Kurose)

Kurose discloses storage-managing server, wherein first processing **includes the**

downloading of a manger program (page 14, paragraph [0152], wherein each program can be

stored in a hard disk or the like belonging to a computer, and loaded into a main memory of the

computer when the program is executed by the computer, wherein downloading is equivalent to

loading, Kurose). However; Kurose is silent with respect to a storage-managing server

requesting downloading of a manager program.

On the other hand Nakamura teaches wherein the storage-managing server receives

a first request requesting download of a manager program (paragraph [0039], wherein access

authority and data move, and copying between disk subsystems is equivalent to downloading;

Figure 3, all features, Nakamura).

It would have been obvious to one of the ordinary skill in the art at the time of the

invention to incorporate a configuration means disclosed by Nakamura within Kurose system to

improve the speed of the system as it relates to a service request designated by a user.

issued from said storage managing terminal, **said manager program to be used by said**

storage managing terminal for executing processing **on** the storage managing server (Figure 1,

all features and page 3, column [0044], wherein each service request-compatible apparatus, i.e.

diagram 20, is interpreted to be receiving the first request has a function of receiving a network

service request and providing a network service request, wherein the storage managing server is

interpreted to be service request compatible apparatus, i.e. diagram 20 and the storage managing

terminal is interpreted to service assignment apparatus, i.e. diagram 10, Kurose), and a second

request for executing processing including the communication of constructional information

which relates to a plurality of volumes in said storage device between said storage device and

the storage managing server (Figure 1, all features, page 3, column [0044], wherein each service

request incompatible apparatus, i.e. diagram 30, is interpreted to be receiving the second request,

has a function receiving a service setting request and performing an operation of setting as

service in the service request incompatible apparatus, and providing the service which is set in

the service request incompatible apparatus, i.e. diagram 30 and column [0045], wherein the

target apparatus determination has a function of determining based on the information on the

service provision state which is collected by the network information collection means, i.e.

diagram 11, one of the at least one service request incompatible apparatus, i.e. diagram 300, in

which an operation of setting a service should be performed, wherein the service mapping means

has a function of linking the network information with the service setting operation, Kurose) **said**

constructional information being used for managing said storage device (Figure 3, all

features, Nakamura); and

storage managing server starts processing, **which includes at least sending a third**

request to said storage device requesting constructional information (Figure 3, wherein a

request access permission, request configuration, and request setting is illustrated;

paragraph [0011], wherein access request from multiple hosts, Nakamura), with respect to

said second request before the storage managing server transmits a response to said first request

to said storage managing terminal (page 3, column [0048], wherein the service request

incompatible apparatus, i.e. diagram 30 is interpreted to be the receiving second request,

provides a service which is identical to or corresponds to a service provided by the service

request-compatible apparatus, i.e. diagram 20, which is interpreted to be receiving first request,

even when a service request-incompatible apparatus, i.e. diagram 30, cannot inherently provide

the service due to incapability of processing a network-service request for the service, and that is,

it is possible to assign a characteristic service of the service-request-compatible apparatuses, i.e.

20 the service-request-incompatible apparatus 30, and therefore the service-request-incompatible

apparatus i.e. diagram 30 can provide the service, Kurose);

wherein said storage device includes said volumes each of which stores data sent

from host computers via a network (Figure 1, all features; paragraph [0015]; [0078];

[0085]; and [0088], Nakamura).

<u>Claims 2,6,8, and 10</u>:

Regarding claims 2,6,8, and 10, the combination of Kurose in view of Nakamura teaches

wherein said first request **includes** a login request from said storage managing terminal to the

storage managing server (page 2, column [0015], wherein protocol proposed in the RSVP

admission policy work group, i.e., RAP-WG, Kurose in the IETF, and used for performing

admission control operations which determines permission for or rejection of a reservation,

where the admission control is performed during a bandwidth reservation process, for example,

in accordance with RSVP, Kurose).

Claims 3 and 11:

Regarding claims 3 and 11, the combination of Kurose in view of Nakamura teaches

storage managing system constructed by a storage-managing server connected to a storage

device, and a storage-managing terminal connected to the storage-managing server;

wherein said storage managing terminal performs transmission processing (page 14,

column [0150], wherein resv-message transmission is performed, Kurose) for sending a first

request, **requesting download of a manager program** to said storage managing server (page 6,

column [0080], wherein the COPS, i.e. common open policy server sends the request data f to

the policy server and page 11, column [0126], wherein the COPS, i.e. common open policy

server, transmission unit sends permission result information g to the RSVP compatible router,

Kurose), **said manager program to be used by said storage managing terminal to execute**

processing on said storage managing server, and a second request for executing processing

(page 14, column [0150], wherein resv-message unit, i.e. diagram74, sends the resv message i as

a resv message j to the server, i.e. diagram 42 in accordance with the protocol, Kurose),

including the communication of constructional information **which relates to a plurality of**

volumes in said storage device by said storage managing server between said storage device and

said storage managing server (REFER to claims 1,5,7 and 9, wherein this limitation has been

addressed, Kurose), **said constructional information being used for managing said storage**

device (Refer to claim 1, wherein this limitation has already been addressed, Nakamura);

wherein said storage managing server performs first processing executed in response to the first request from said storage managing terminal, and second processing which is executed in response to the second request from said storage managing terminal (REFER to claims 1,5,7 and 9, wherein this limitation has been addressed, Kurose), and includes the communication of the constructional information of said storage device between said storage device and the storage managing server (REFER to claims 1,5,7 and 9, wherein this limitation has been addressed, Kurose); and

wherein said second processing with respect to the second request from said storage managing terminal, **including at least sending a third request to said storage device requesting constructional information (Refer to claim 1, wherein this limitation has already been addressed, Nakamura),** is started before said storage managing server **sends a response to said first request** to said storage managing terminal (REFER to claims 1,5,7 and 9, wherein this limitation has been addressed, Kurose), **and wherein said storage device includes said volumes each of which data sent from host computers via a network (Refer to claim 1, wherein this limitation has already been addressed, Nakamura).**

Claims 4 and 12:

Regarding claims 4 and 12, the combination of Kurose in view of Nakamura teaches wherein said first processing includes the downloading of **said** manager program for operating the constructional information of said storage device (page 14, column [0152], wherein each program can be stored in a hard disk drive or the like belonging to a computer, and loaded into a main memory of the computer when the program is executed by the computer, wherein downloading is interpreted to be loading, Kurose).

Prior Art of Record

1. <u>Kurose et al</u> (US Publication No. 2001/0056459) discloses a service assignment apparatus sets an appropriate service in a service-request-incompatible apparatus as a network element so as to guarantee the service in the entire network, wherein a service-request-compatible apparatus processes a received network-service request, and provides a service; a network-information collection unit in the service assignment apparatus collects information on a service-provision state of the service-request-compatible apparatus; a target-apparatus determination unit that determines a service-request-incompatible apparatus based on the collected information on the service-provision state; a service mapping unit determines a service which the service-request-incompatible apparatus can provide based on the information on the service-provision state and information on the determined service-request-incompatible apparatus; and a service setting unit sets the service in the service-request-incompatible apparatus.

2. <u>Tsuruta et al</u> (US Patent No. 6,378,050) discloses an information processing apparatus is constructed to include a judging part for decoding an address of an input request and outputting a judgment signal which indicates whether the input request is a cache control request or a DMA control request, and a control part for carrying out a cache control when the judgment signal from the judging part indicates the cache control request, and carrying out a DMA control when the judgment signal indicates the DMA control request.

3. Nakamura et al. (US Publication No. 2003/0061331) discloses the configuration of multiple disk subsystems shared from multiple hosts.

Response to Arguments

10.   Applicant's arguments filed on 7/26/2006, with respect to the rejected claims in view of

the cited references have been considered but are moot in view of applicant's amended claims

necessitate new ground(s) of rejection.

11.   Applicant argues prior fail to teach, *"that the managing server receives a first request,*

requesting download of a manager program issued from the storage managing terminal, wherein

the manager program is used by the storage managing terminal for executing processing on the

storage managing server".

       Examiner respectfully disagrees. In response to applicant's argument that the references

fail to show certain features of applicant's invention, it is noted that the features upon which

applicant relies (i.e., ***requesting download of a manager program*** *issued from the storage*

managing terminal) are not recited in the rejected claim(s). Although the claims are interpreted

in light of the specification, limitations from the specification are not read into the claims. See *In*

re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

12.   Applicant argues prior fail to teach, *"that the managing server receives a second request*

for executing processing including communication of constructional information, which relates

to the volumes in the storage device, between the storage device and the storage managing

server wherein the constructional information is used for managing the storage device".

       Examiner respectfully disagrees. In response to applicant's argument that the references

fail to show certain features of applicant's invention, it is noted that the features upon which

applicant relies (i.e., *__which relates to volumes in the storage device__*) are not recited in the

rejected claim(s). Although the claims are interpreted in light of the specification, limitations

from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26

USPQ2d 1057 (Fed. Cir. 1993).

13.   Applicant argues prior fail to teach, "*that the storage managing server starts processing,*

which includes at least sending a third request to the storage device requesting constructional

information, with respect to the second request before the storage managing server transmits a

response to the first request to the storage managing terminal".

Examiner respectfully disagrees. In response to applicant's argument that the references

fail to show certain features of applicant's invention, it is noted that the features upon which

applicant relies (i.e., *__which includes at least sending a third request to the storage device__*

__requesting constructional information__) are not recited in the rejected claim(s). Although the

claims are interpreted in light of the specification, limitations from the specification are not read

into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

14.   Applicant argues prior fail to teach, "*that the storage device includes volumes each of*

which stores data sent from host computers via a network".

Examiner respectfully disagrees. Examiner respectfully disagrees. In response to

applicant's argument that the references fail to show certain features of applicant's invention, it is

noted that the features upon which applicant relies (i.e., *storage device __includes volumes each of__*

which stores data sent from host computers via a network) are not recited in the rejected

claim(s). Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26

USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing
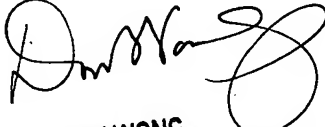
date of this final action.

Point of Contact

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Helene Rose whose telephone number is (571) 272-0749. The

examiner can normally be reached on 8:00am - 4:30pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Don Wong can be reached on (571) 272-1834. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

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see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system,

contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Helene Rose
Technology Center 2100
October 3, 2006

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